

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

AMERICAN FEDERATION OF
GOVERNMENT EMPLOYEES, *et al.*,

Plaintiff,

v.

UNITED STATES OFFICE OF
PERSONNEL MANAGEMENT, *et al.*,

Defendants.

Case no. 3:25-cv-1780-WHA

DECLARATION OF THOMAS NAGY

Pursuant to 28 U.S.C. § 1746, I, Thomas Nagy, declare as follows:

1. I am the Deputy Assistant Secretary for Human Resources/Chief Human Capital Officer, United States Department of Health and Human Services (“HHS” or “Department”) headquartered in Washington, D.C. I make this declaration based on my own personal knowledge and information provided to me by the Department’s Human Resources Office.

2. I have served in this position since March 27, 2025. In my role at HHS, I am responsible for personnel management. I have the responsibility for overseeing the personnel enterprise for the Department.

3. To comply with Paragraph 3 and 4 of Judge Alsup’s September 12, 2025, Order, HHS confirms that the electronic Official Personnel Folders (eOPF), including SF-50s, for all 88 employees initially terminated between February 14 and March 13, 2025, by a written notice based on the Office of Personnel Management (“OPM”) template termination letter, reflect that the terminations were not performance or conduct based. Specifically, the termination SF-50s issued

between February 14 and March 13, 2025, were rescinded and/or cancelled and there are no SF-50s to correct. HHS also confirms that the eOPFs, including SF-50s, for all other HHS employees that received a written notice of termination during their probationary or trial period based on the template termination letter provided by OPM, reflect that the terminations were not performance or conduct based. While HHS issued termination notices, on or about February 14, to an additional 3,407 probationary employees, HHS never effectuated those terminations to those employees based on the OPM template termination letter at issue in this case.

4. It was not necessary for HHS to update any employee personnel files, including eOPFs and SF-50s, to comply with Paragraph 3 of the September 12, 2025, Order because HHS rescinded all employee terminations based on the February 2025 probationary termination notice in March 2025. Accordingly, there were no employee files, including eOPFs and SF-50s, to update to reflect that their termination was not based on performance or conduct.

5. It was also not necessary for HHS to update any employee personnel files, including SF-50s, to comply with Paragraph 4 of the September 12, 2025, Order because HHS rescinded all employee terminations based on the February 2025 probationary termination notice in March 2025 and did not retroactively terminate any HHS employee to the date of the February 2025 probationary termination. Accordingly, there were no employee files, including SF-50s, to update to reflect such actions.

6. To comply with Paragraph 5 of the September 12, 2025, Order, HHS sent corrective written notices to all probationary employees who received a notice of termination that was based on the OPM template termination letter in or around February 14, 2025. The individually addressed written notices state that each employee's termination was not terminated based on personal performance.

7. HHS sent these written notices on October 31, 2025, by United States Postal Service mail, postage pre-paid.

8. Although HHS issued termination notices to approximately 3,495 of its probationary employees based on OPM's February 2025 template, the agency rescinded and/or never effectuated any of those terminations. As a result, the agency has determined that paragraph 8 of the court's order does not apply to HHS.

9. This declaration also serves to inform you of an inadvertent error that HHS made in the issuance of the prior written notices required by your April 18, 2025, Order on Motion for Preliminary Injunction by Union Plaintiffs and State of Washington (Preliminary Injunction Order) and in my May 6, 2025, and May 22, 2025, declarations.

10. Although my prior declarations stated that HHS sent written notices to all probationary employees who received a February 2025 probationary termination notice based on the OPM template termination letter, the Agency inadvertently did not issue the notice to all such employees. Rather, HHS issued the notice to approximately 1,600 employees on or about May 8, 2025, but inadvertently did not issue the May 8, 2025, notice to the remainder of employees who received a February 2025 probationary termination notice based on the OPM template termination letter. Specifically, HHS did not send the May 8 notice to employees who received a February 2025 probationary termination notice but were no longer subject to any probationary termination, including, employees whose probationary periods had concluded; employees who were initially described as probationary but whose employment history required further research and were ultimately determined to not be probationary; employees who voluntarily resigned or retired; and employees who passed away.

11. This inadvertent error was identified during a conversation with Agency counsel related to a September 2025 filing in an administrative appeal involving probationary terminations and was communicated to Department of Justice counsel in early October.

12. To address this inadvertent error, on October 31, 2025, HHS sent a corrected notice consistent with the September 12, 2025, Order, as detailed in paragraphs 6 and 7 above, to all probationary employees who were issued February 2025 probationary termination notices based on the OPM template termination letter.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: November 17, 2025

**THOMAS J.
NAGY JR -S**
Thomas Nagy

Digitally signed by
THOMAS J. NAGY JR -S
Date: 2025.11.17
11:10:26 -05'00'



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary

Washington, DC 20201

October 31, 2025



Dear [REDACTED]:

This corrective notice is provided to you pursuant to an order issued on September 12, 2025, by the United States District Court for the Northern District of California in the case *American Federation of Government Employees v. U.S. Office of Personnel Management*, No. 3:25-cv-1780-WHA (N.D. Cal.).

As required by Paragraph 5 of the district court's order, the U.S. Department of Health and Human Services (HHS) informs you that you were not terminated on the basis of your personal performance.

As required by Paragraph 3 of that order, HHS has updated your personnel file, including your SF-50, to reflect that your termination was not performance or conduct based.

Please note that this corrective notice does not change or otherwise affect any other communications or actions taken regarding your employment status with HHS.

Sincerely,

s/ Thomas J. Nagy, Jr.

Thomas J. Nagy, Jr.
Deputy Assistant Secretary for Human Resources
Chief Human Capital Officer